

State Water Resources Control Board
Division of Drinking Water

December 3, 2018

System No. 1800514

Certified Mail
No. 7017 0190 0000 6412 8253

Kevin Waits
Eagle Nest Homeowners Corporation
P.O. Box 1960
Susanville, CA 96130

TRANSMITTAL OF CITATION NO. 01-02-18C-014

Dear Mr. Waits:

The State Water Resources Control Board, Division of Drinking Water, has issued the Eagle Nest Homeowners Corporation water system a citation, which is attached.

Any person who is aggrieved by an order or decision issued by the deputy director of the Division of Drinking Water under Article 8 (commencing with Health and Safety Code Section 116625) or Article 9 (commencing with Health and Safety Code Section 116650), of the Safe Drinking Water Act (Chapter 4, Part 12, Division 104, of the Health and Safety Code) may file a petition with the State Water Board for reconsideration of the order or decision. Appendix A to the enclosed citation contains the relevant statutory provisions for filing a petition for reconsideration. (Health and Safety Code Section 116701)

Petitions must be received by the State Board within 30 days of the issuance of the order or decision by the Deputy Director. The date of issuance is the date when the Division of Drinking Water mails a copy of the order or decision. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day. Petitions must be received by 5:00 p.m.

Information regarding filing petitions may be found at:

http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml

If you have any questions regarding this matter, please call Nick McGann at (530) 224-3269 or me at (530) 224-4800.



Stephen W. Watson, P.E.
Lassen District Engineer
Drinking Water Field Operations Branch

cc: Ellen Cognina, Lassen County Environmental Health Department

Enclosure: Citation No. 01-02-18C-014

njm \ 1800514 Eagle Nest Homeowners Corporation \ File: Enforcement

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APPLICABLE AUTHORITIES**Section 116650 of California Health and Safety Code provides:**

(a) If the State Board determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the State Board may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.

(b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.

(c) A citation may specify a date for elimination or correction of the condition constituting the violation.

(d) A citation may include the assessment of a penalty as specified in subdivision (e).

(e) The State Board may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation.

California Code of Regulations, Title 22, Section 64426, subsections (a) and (b), provides in relevant part:

(a) Any of the following criteria shall indicate a possible significant rise in bacterial count:

(1) A system collecting at least 40 samples per month has a total coliform-positive



1 routine sample followed by two total coliform-positive repeat samples in the repeat
2 sample set;

3 (2) A system has a sample which is positive for fecal coliform or E. coli; or

4 (3) A system fails the total coliform Maximum Contaminant Level (MCL) as defined
5 in Section 64426.1.

6 (b) When the coliform levels specified in subsection (a) are reached or exceeded, the
7 water supplier shall:

8 (1) Contact the State Board by the end of the day on which the system is notified of
9 the test result or the system determines that it has exceeded the MCL, unless the
10 notification or determination occurs after the State Board office is closed, in which
11 case the supplier shall notify the State Board within 24 hours; and

12 (2) Submit to the State Board information on the current status of physical works and
13 operating procedures which may have caused the elevated bacteriological findings,
14 or any information on community illness suspected of being waterborne. This shall
15 include, but not be limited to:

16 a. Current operating procedures that are or could potentially be related to the
17 increase in bacterial count;

18 b. Any interruptions in the treatment process;

19 c. System pressure loss to less than 5 psi;

20 d. Vandalism and/or unauthorized access to facilities;

21 e. Physical evidence indicating bacteriological contamination of facilities;

22 f. Analytical results of any additional samples collected, including source samples;

23 g. Community illness suspected of being waterborne; and

24 h. Records of the investigation and any action taken.

25
26 **California Code of Regulations, Title 22, Section 64426.1 provides, in relevant part:**

27 (b) A public water system is in violation of the total coliform MCL [maximum

1 contaminant level] when any of the following occurs:

- 2 (2) For a public water system which collects fewer than 40 samples per month,
3 more than one sample collected during any month is total coliform-positive;
4

5 **Section 116701 of California Health and Safety Code provides:**

6 (a) Within 30 days of issuance of an order or decision issued by the deputy director
7 under Article 8 (commencing with Section 116625) or Article 9 (commencing with
8 Section 116650), an aggrieved person may petition the state board for
9 reconsideration. Where the order or decision of the deputy director is issued after a
10 hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
11 Title 2 of the Government Code, this section shall apply instead of Section 11521 of
12 the Government Code.

13 (b) The petition shall include the name and address of the petitioner, a copy of the
14 order or decision for which the petitioner seeks reconsideration, identification of the
15 reason the petitioner alleges the issuance of the order was inappropriate or
16 improper, the specific action the petitioner requests, and other information as the
17 state board may prescribe. The petition shall be accompanied by a statement of
18 points and authorities of the legal issues raised by the petition.

19 (c) The evidence before the state board shall consist of the record before the deputy
20 director and any other relevant evidence that, in the judgment of the state board,
21 should be considered to implement the policies of this chapter. The state board may,
22 in its discretion, hold a hearing for receipt of additional evidence.

23 (d) The state board may refuse to reconsider the order or decision if the petition fails
24 to raise substantial issues that are appropriate for review, may deny the petition
25 upon a determination that the issuance of the order or decision was appropriate and
26 proper, may set aside or modify the order or decision, or take other appropriate



1 action. The state board's action pursuant to this subdivision shall constitute the state
2 board's completion of its reconsideration.

3 (e) The state board, upon notice and hearing, if a hearing is held, may stay in whole
4 or in part the effect of the order or decision of the deputy director.

5 (f) If an order of the deputy director is subject to reconsideration under this section,
6 the filing of a petition for reconsideration is an administrative remedy that must be
7 exhausted before filing a petition for writ of mandate under Section 116625 or
8 116700.

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10 **STATEMENT OF FACTS**

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12 Eagle Nest is located on the south side of Eagle Lake approximately two miles east from the
13 end of Gallatin Road. It is typically open for use during the months between April and
14 October each year. The domestic water system is classified as a transient non-community
15 water system. Eagle Nest is required to collect one routine bacteriological sample during
16 each month the water system is operational.

17
18 On October 4, 2018 one routine bacteriological sample was collected from Eagle Nest's
19 distribution system and was found to be positive for total coliform bacteria. Four repeat
20 samples were collected on October 5, 2018 and three samples were found to be positive for
21 total coliform bacteria; all samples were negative for the presence of E. Coli. Eagle Nest
22 issued a boil water notice for the water system following the repeat positive sample to notify
23 the public, which satisfies the Tier 2 notification requirements of Section 64463.4 and Section
24 64465, Title 22, of the CCR. A Level 1 Assessment as required by Title 22, Section
25 64426(b)(2) of the CCR was completed and submitted to the Division on October 30, 2018.
26 The boil water notice is to remain in effect until the seasonal start up procedure prior to the
27 2019 season shows no presence of total coliform or E. Coli bacteria.

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4 **DETERMINATIONS**
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6 Based on the above Statement of Facts, the Division has determined that Eagle Nest violated
7 Section 64426.1(b)(2), Title 22, of the CCR, in that Eagle Nest exceeded the total coliform
8 MCL during the month of October 2018.
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10 **DIRECTIVES**
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12 Eagle Nest is hereby directed to take the following actions:
13

- 14 1. Comply with Sections 64426 and 64426.1, Title 22, of the CCR in all future monitoring
15 periods.
16 2. Complete and return Attachment 'A' entitled "Compliance Certification" to the address
17 listed below **by no later than December 31, 2018.**
18

19 All documents required by this Citation to be submitted to the State Board shall be submitted
20 to the following address:

21
22 Stephen W. Watson, P. E.
23 Lassen District Engineer
24 State Water Resources Control Board
25 Division of Drinking Water
26 364 Knollcrest Drive, Suite 101
27 Redding, CA 96002
28

1 As used in this Citation, the date of issuance shall be the date of this Citation; and the date of
2 service shall be the date of service of this Citation, personal or by certified mail, on the Water
3 System

4
5 Nothing in this Citation relieves Eagle Nest of its obligation to meet the requirements of Health
6 and Safety Code, Division 104, Part 12, Chapter 4 (California Safe Drinking Water Act), or
7 any regulation, permit, standard or order issued or adopted thereunder.

8
9 The Division reserves the right to make such modifications to this Citation, as it may deem
10 necessary to protect public health and safety. Such modifications may be issued as
11 amendments to this Citation and shall be effective upon issuance.

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13 **PARTIES BOUND**

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15 This Citation shall apply to and be binding upon Eagle Nest, its officers, directors,
16 shareholders, agents, employees, contractors, successors, and assignees.

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18 **SEVERABILITY**

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20 The Directives of this Citation are severable, and Eagle Nest shall comply with each and
21 every provision thereof, notwithstanding the effectiveness of any other provision.

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23 **FURTHER ENFORCEMENT ACTION**

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25 The California SDWA authorizes the State Board to: issue citation with assessment of
26 administrative penalties to a public water system for violation or continued violation of the
27 requirements of the California SDWA or any permit, regulation, permit or order issued or



1 adopted thereunder including, but not limited to, failure to correct a violation identified in a
2 citation or compliance order. The California SDWA also authorizes the State Board to take
3 action to suspend or revoke a permit that has been issued to a public water system if the
4 system has violated applicable law or regulations or has failed to comply with an order of the
5 State Board; and to petition the superior court to take various enforcement measures against
6 a public water system that has failed to comply with or violates an order of the State Board.
7 The State Board does not waive any further enforcement action by issuance of this citation.

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9
10 12/3/2018

11 Date

Stephen W. Watson

12 Stephen W. Watson, P.E.
13 Lassen District Engineer
14 Division of Drinking Water
State Water Resources Control Board



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18 CERTIFIED MAIL 7017 0190 0000 6412 8253

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20 Attachment A: Compliance Certification
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COMPLIANCE CERTIFICATIONCitation Number: **01-02-18C-014**Name of Water System: **Eagle Nest Homeowners Corporation**System Number: **1800514**

As required by Section 116450 of the California Health and Safety Code, I certify that the users of the water supplied by this water system were notified of the violations of Title 22, California Code of Regulations (CCR) for the compliance period of October 2018. In addition, I certify that the Eagle Nest Homeowners Corporation complied with the directives of this citation as indicated below:

<u>Required Action</u>	<u>Date Completed</u>
Public Notification	_____
_____	_____
Signature of Water System Representative	Date

Attach a copy of the Boil Water Advisory issued to customers by direct delivery during the October 2018 violation.

THIS FORM MUST BE COMPLETED AND RETURNED TO THE DEPARTMENT NO LATER THAN DECEMBER 31, 2018

Disclosure: Be advised that Section 116725 and 116730 of the California Health and Safety Code states that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached order may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in county jail not to exceed one year, or by both the fine and imprisonment.